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Attorneys for Shapiro & Sutherland, LLC

IN THE UNITED STATES DISTRICT COURT
FOR THE COUNTY OF JACKSON

DENISE and KENNETH COOK,)	
)	
Plaintiffs,)	Case No. 10-cv-3121-PA
)	
vs.)	DECLARATION OF KELLY D.
)	SUTHERLAND ON DEFENDANT'S
BENEFICIAL OREGON, INC. and)	MOTION FOR SUMMARY
SHAPIO & SUTHERLAND, LLC)	JUDGMENT
)	
Defendants.)	

I, Kelly D. Sutherland, am over the age of 18, under penalty of perjury, state as follows:

1. I am a licensed Oregon attorney and Managing Partner in the Law Firm of Defendant Shapiro & Sutherland, LLC, and in the normal course of my business I create and maintain records for loans for which I am appointed trustee or successor trustee. I am required to be and I am familiar with the manner in which those records are created and/or maintained.

2. I am the Successor Trustee with respect to subject trust deed made by Kenneth L. Cook and Denise M. Cook, as grantor to Regional Trustee Services, as trustee, in favor of Beneficial Oregon Inc., as beneficiary, dated March 8, 2007, recorded March 12, 2007, in the mortgage records of

DECLARATION OF KELLY D. SUTHERLAND ON
DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT -1

SHAPIRO & SUTHERLAND, LLC
KELLY D. SUTHERLAND

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1 Josephine County, Oregon, as Instrument No. 2007-004995, as covering the following described real
2 property:

3 Beginning at the West quarter corner of Section 9, Township 37 South, Range 7 West of the
4 Willamette Meridian, Josephine County, Oregon; thence North 89°36'45" East 2664.34 feet to the
5 center of said Section; thence North 0°51'20" East 334.25 feet to the point of beginning; thence
6 South 89°36'45" West 1332.17 feet to the West line of the East half of the Northwest quarter of said
7 Section; thence North 00°49'30" East 500.46 feet; thence North 89°36'45" East 1332.17 feet to the
8 North-South centerline of said Section; thence South 00°51'20" West 500.46 feet along said
9 centerline to the true point of beginning. EXCEPTING THEREFROM any portion lying within the
10 boundaries of a parcel of land in the Northwest quarter of Section 9, Township 37 South, Range 7
11 West of the Willamette Meridian, Josephine County, Oregon, described as follows: beginning at the
12 center point of said Section 9 and running North 0°21' East along the North-South centerline of said
13 Section, 334.25 feet to the point of beginning; thence North 0°21' East along the North-South
14 centerline of said Section, 1002.75 feet to the South line of the North half of the Northwest quarter of
15 said Section; thence along said South line of the North half of the Northwest quarter, South 89°37'
16 West 572.20 feet to the approximate centerline of the public roadway; thence along said public
17 roadway centerline, South 22°39' East 1095.35 feet; thence North 89°37' East 188.05 feet to the
18 North-South centerline of said Section 9 to the true point of beginning.

19 And property commonly known as 300 Newt Gulch Road, Wilderville, OR 97543

20 (the "Property").

21 3. Kenneth L. Cook and Denise M. Cook, the grantors of the Deed of Trust,
22 breached the terms of the Note and Deed of Trust by their failure to make the monthly payments
23 on the Note and Deed of Trust. Therefore, the Note and Deed of Trust were in default. As a
24 result, our office was asked to conduct a non-judicial foreclosure of the Trust Deed.

25 4 I was appointed Successor Trustee by Beneficial Oregon, Inc. A true copy of
26 the recorded Substitution of Trustee is attached as Exhibit "A" and by this reference
incorporated herein.

5. At the request of the beneficiary I recorded a Notice of Default and Intent to Sell,
establishing the Trustee's Sale date for December 2, 2010. A true copy of that recorded
instrument is attached as Exhibit "B" and by this reference incorporated herein.

DECLARATION OF KELLY D. SUTHERLAND ON
DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT -2

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1 6. As detailed in the Trustee's Affidavit as to Compliance to ORS 86.737, I served
2 the "Danger Notice" required under ORS 86.737 to the Plaintiffs and occupant, by certified
3 mail, return receipt requested, and first class mail on July 28, 2010. A true and accurate copy
4 of the Trustee's Affidavit of Compliance is included in the Affidavit Package is attached hereto
5 as Exhibit "C."

7 6. As detailed in the Affidavit of Mailing of Notice of Sale, pursuant to ORS
8 86.740(1)(a), I served the Notice of Sale to Plaintiffs by certified mail, return receipt
9 requested, and first class mail on July 30, 2010. A true and accurate copy of the Affidavit of
10 Mailing is included in the Affidavit Package is attached hereto as Exhibit "C."

11 7. As detailed in the Affidavit of Mailing and Affidavit of Posting, pursuant to ORS
12 86.750, process servers, acting on behalf of the Successor Trustee, attempted to personally
13 serve the Occupants twice, posting the Notice of Sale at the Property once on July 31, 2010
14 and personally served Keneth Cook on August 3, 2010. A true and accurate copy of the
15 Affidavit of Service is included in the Affidavit Package is attached hereto as Exhibit "C."

17 8. As authorized by ORS 86.755(2), I postponed the Trustee's Sale scheduled for
18 December 2, 2010 to December 17, 2010. Said sale was postponed by public proclamation
19 by my authorized agent. The Trustee's sale scheduled for December 17, 2010 was postponed
20 by public proclamation by my authorized agent to January 5, 2011. True and accurate copies
21 of the Certificate of Postponement for each sale are attached hereto as Exhibit "D".

23 9. On January 5, 2011, the Trustee's Sale was held and Beneficial Oregon, Inc. was
24 the successful bidder with a credit bid of \$146,015.99. On January 11, 2011, our office
25 delivered the Trustee's Deed conveying the Property to Beneficial Oregon, Inc. True and
26

DECLARATION OF KELLY D. SUTHERLAND ON
DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT -3

SHAPIRO & SUTHERLAND, LLC
KELLY D. SUTHERLAND

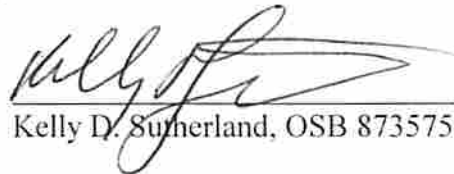
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1 accurate copies the Certificate of Sale at Public Auction and the recorded Trustee's Deed are
2 attached hereto as Exhibit "E" and "F".

3 I have substantial experience in the conduct of non-judicial foreclosures of residential
4 real property in Oregon, and the foreclosure and sale were in all respects conducted in
5 accordance with Oregon law.
6

7 I hereby declare that the above statement is true to the best of my knowledge
8 and belief, and that I understand it is made for use as evidence in court and is subject to
9 penalty of perjury.

10 DATED this 5th day of March, 2011

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13 Kelly D. Sutherland, OSB 873575
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DECLARATION OF KELLY D. SUTHERLAND ON
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JUDGMENT -4

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